IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

MFA.No. 290 of 2002

AGAINST OPMV.1422/1995 OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL, THALASSERY
.....

APPELLANT/PETITIONER

K.K.DINESH BABU, S/O.KRISHNAN NAMBIAR,
33 YEARS, KARIYIL HOUSE, KIZHALOOR AMSOM, KARA,
PARAVOOR DESOM, POST MATTANOOR, KANNUR.

BY ADV. SRI.E.C.BINEESH

RESPONDENTS/RESPONDENTS 1 TO 3 IN OP.(MV)
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1. P.T.ABOOBAKKAR, PILATHOTTATHIL HOUSE,
NATERI POST, KOZHIKODE.

2. K.IBRAHIM, S/O.AMMAD,
KURUMGOTT HOUSE, POST NEELAMPURA VAYAL,
KUTTIYADI (VIA), KOZHIKODE DISTRICT.

3. THE ORIENTAL INSURANCE LTD. CO.,
MAVOOR ROAD, KOZHIKODE.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 07/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.HEMA,JJ.

M.F.A.NO.290 OF 20O2

Dated this the 7th day of December, 2007

JUDGMENT

Koshy, J.

This appeal was filed in 2002. It was admitted after curing defect on 8.9.2005, but process was not filed and finally, the case was posted on 31.10.2007. Since process was not served and there was no represention also, the appeal was dismissed for default. When the petition for restoration was posted on 5.12.2007 also, the appellant was not vigilant and the following order was passed:

> "When the MJC was called in the morning it was stated that MJC can be allowed and appellant is ready to argue the appeal on merit and the case was posted in the afternoon. Consequently, appellant was again absent in the afternoon.
>
> Post on 7.12.2007 for orders."

2. However, since petitioner need not suffer for the faults not admitted, we again posted the case today and heard the counsel for appellant. The appellant in this case suffered injuries in a motor accident. The Tribunal noticed that the doctor has not specified the percentage of disability except stating that the hearing loss of the appellant was 40 decibel left ear. That was during the period of

treatment. Therefore, the Tribunal awarded Rs.8,000/- for disability and for pain and suffering, Rs.15,000/- was awarded. The total amount awarded was Rs.33,150/- with interest at 9% from the date of petition till the date of realisation of the amount. The application was filed in 1995 and the award was passed only in 2001. Considering the total amount awarded, the rate of interest and nature of injuries suffered, we are of opinion that no interference is required as just and reasonable compensation was awarded. The appeal is dismissed.

J.B.KOSHY, JUDGE

K.HEMA, JUDGE

vgs.

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NO. 290 OF 2002

JUDGMENT

7.12.2007